

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 348 (PGG)

5 SANDY GOMEZ,

6 Trial
7 Defendant.
8 -----x

9 New York, N.Y.
10 November 7, 2016
11 9:35 a.m.

12 Before:

13 HON. PAUL G. GARDEPHE,

14 District Judge
-and a Jury-

15 APPEARANCES

16 PREET BHARARA

17 United States Attorney for the
18 Southern District of New York

PATRICK EGAN

RICHARD A. COOPER

SHAWN G. CROWLEY

20 Assistant United States Attorneys

21 NATALI J.H. TODD

22 Attorney for Defendant

1 (Case called)

2 MR. EGAN: Patrick Egan, Shawn Crowley and Richard
3 Cooper for the government. Good morning, your Honor.

4 MS. TODD: Good morning, your Honor, Natali Todd for
5 Mr. Gomez.

6 THE COURT: Good morning. My clerk tells me there is
7 an issue we need to discuss.

8 MR. COOPER: Yes, your Honor. Among the proposed
9 government exhibits is Government Exhibit 207T, which is a
10 transcript and translation of a call between the confidential
11 source and Jorge Gomez that took place on December 8, which is
12 after Sandy Gomez and Caronlay Ramon-Baez were arrested down in
13 Louisiana. My understanding is that defense counsel objects to
14 its admissibility. Ms. Todd can speak for herself, but my
15 understanding is that the objection is because the call
16 postdates the arrest of two members of the conspiracy. Our
17 position is that the arrest does not terminate the conspiracy.
18 There is good Second Circuit law for that position. I am not
19 sure if your Honor wants to hear from me now or from defense
20 counsel first on that.

21 THE COURT: No. I'll hear from Ms. Todd.

22 MS. TODD: Thank you, your Honor. Your Honor, I
23 object to the admissibility of this particular exhibit because
24 I believe the statements are hearsay upon hearsay. I don't
25 believe this fits within the confines of the coconspirator

1 statement. Having read the transcript, Jorge Gomez speculates
2 specifically about what's going on. He has talked to a lawyer.
3 He has talked to --

4 THE COURT: Before we go further I should take a look
5 at the transcript. Can someone hand me up a copy.

6 What's the date of the translation? What's the date
7 of this conversation?

8 MS. TODD: The date of the conversation is December 8,
9 your Honor. It's Exhibit 207T.

10 THE COURT: What was the date of the arrest?

11 MS. TODD: December 7.

12 THE COURT: When I said the day of the arrest I was
13 meaning the day of Jorge Gomez's arrest. Was that December 7?

14 MS. TODD: No, your Honor. The day of the arrest for
15 Sandy Gomez and Ms. Ramon-Baez, who were in the vehicle in
16 Louisiana at the time, was December 7. Jorge Gomez was still
17 at liberty. So he is communicating with the confidential
18 source about the arrest. Jorge Gomez was not present when the
19 defendants were arrested.

20 THE COURT: Just give me a moment.

21 I have read the transcript. Go ahead, Ms. Todd.

22 MS. TODD: Judge, I was saying, your Honor, that it
23 appears that Jorge Gomez is getting information from a number
24 of different people, including having spoken to a lawyer. And
25 it's our position that it's hearsay upon hearsay.

1 So, for example, on page 4, four boxes up from the
2 bottom of the page where he refers to -- I'm sorry. Two lines
3 up where he says: Hello, yes, go ahead, they said they are
4 releasing her, it's unclear who he has spoken to to get that
5 information, whether he called law enforcement about his
6 girlfriend and his brother at the time, whether that was from
7 his lawyer or whether that was from Ms. Baez herself.

8 On page 5 he then says at the bottom of the page:
9 They are supposedly asking him about a man, about some people
10 there, but he doesn't know who it is. Then he said: Well, we
11 were on vacation. That is all speculative as to what's going
12 on. On page 7 he refers to, Morena already called me and told
13 me she is being released. That is three boxes down from the
14 bottom of the page on page 7.

15 Judge, he's getting information and speculating about
16 what's really going on. He doesn't know. He wasn't there.
17 And I would object that this is a coconspirator statement
18 because the arrest happened.

19 I understand what the Second Circuit law says, but
20 given all these circumstances, I don't believe that this fit
21 within the scope of a coconspirator statement and I would
22 object to the transcript coming in. Also, the issue of the
23 arrest is irrelevant or the fact of the arrest is irrelevant
24 with respect to this conversation.

25 THE COURT: I'll hear from the government.

1 MR. COOPER: Your Honor, we believe this fits squarely
2 within the coconspirator exception to hearsay.

3 THE COURT: How isn't it in furtherance of the
4 conspiracy for Jorge Gomez who is telling this to a government
5 informant?

6 MR. COOPER: Your Honor, he's updating the government
7 informant.

8 THE COURT: But the government informant is not part
9 of the conspiracy. The government informant is actually
10 working for the government. Again, my question is, how is this
11 in furtherance of the conspiracy for him to be telling these
12 things to the government's informant?

13 MR. COOPER: He's reporting on what his understanding
14 of what happened to other members of the conspiracy.

15 THE COURT: But the confidential source is not a
16 member of the conspiracy. You said you have lots of case law.
17 So the case law I want to see is case law arising in this
18 circumstance where a member of the conspiracy is reporting to
19 somebody who is a government informant and a court holding that
20 that is admissible as a statement in furtherance of the
21 conspiracy. And then when you give me that law, I'll rule on
22 the application.

23 I will say, I don't view this as particularly
24 probative. It's a conversation between the government's
25 informant and Jorge Gomez. Jorge Gomez wasn't present. So

1 everything he's reporting to the confidential source is
2 something that he's been told by somebody else. The government
3 is going to have direct evidence of what happened at the time
4 of the arrest. So this doesn't strike me as particularly
5 probative. It's second or thirdhand information. But I'll
6 take a look at the cases that you want to show me and then I'll
7 rule on the application.

8 Obviously, if I'm not able to rule on this before the
9 openings, there is to be no mention of this during openings.

10 MR. COOPER: Certainly, your Honor.

11 THE COURT: Other issues that the parties want to
12 raise.

13 MR. COOPER: Nothing from the government. Thank you,
14 your Honor.

15 MS. TODD: Nothing from the defense. Thank you, your
16 Honor.

17 THE COURT: We are expecting the panel to be brought
18 up some time between 10:15 and 10:30. As soon as they arrive I
19 will come down and we will begin.

20 I will return this to whoever gave me this because you
21 have given me copies of all the exhibits.

22 MR. COOPER: Yes. Thank you.

23 THE COURT: We will resume shortly.

24 (Recess)

25 (Continued on next page)

1
1 (A jury of twelve and two alternates impaneled and
2 sworn)

3 THE COURT: Ladies and gentlemen, you are now a jury.
4 There is no higher function in our legal system. From now on,
5 whenever you enter or leave the courtroom as a jury, my deputy
6 will instruct the parties and the audience to rise, the same as
7 it does for me, because you are every bit as powerful and
8 important as any judge.

9 Let me introduce you again to some of the people who
10 are here in the courtroom. I'll be the judge presiding over
11 the trial and, as I told you, my name is Paul Gardephe. If you
12 forget what courtroom we are in or how to get here, just ask
13 one of the marshals downstairs where Judge Gardephe's courtroom
14 is and they will be happy to direct you.

15 You've already met Mr. Gomez and Ms. Todd and you've
16 met Mr. Cooper, Mr. Egan and Ms. Crowley who are the Assistant
17 United States Attorneys. My courtroom deputy seated right in
18 front of me is Mr. Michael Ruocco and he is the person to speak
19 with if you have any questions or difficulties during the
20 trial. Mr. Fouts is my law clerk and his job is to help me
21 research any legal issues that might come up during the trial.

22 I have a few preliminary instructions to give you now.
23 And as soon as I've completed that we will hear opening
24 statements from the parties.

25 First I'll begin with a role of the jury. In the

1 American system of justice the judge and jury have separate
2 roles. My job is to instruct you as to the law that governs
3 and controls this case. I am going to give you these
4 instructions now. I may give you others from time to time
5 during the trial. At the end of the trial I will give you
6 detailed instructions about the law you will need to apply when
7 you deliberate. Your job as jurors is to determine the facts
8 based on the evidence at the trial. You are the only triers of
9 fact and your decisions on the factual issues will determine
10 the outcome of the case.

11 You must not take anything I may say or do during the
12 trial as indicating what your verdict should be. Don't be
13 influenced by my taking notes. What I write down may have
14 nothing to do with this trial or with those issues that you
15 have to be concerned about.

16 You must pay close attention to all the evidence
17 presented. Evidence consists only of the testimony of
18 witnesses, documents and other things admitted into evidence.
19 Sometimes there are stipulations which are agreements entered
20 into by the parties and those can be considered by you as well.

21 However, certain things are not evidence and you must
22 not consider them as evidence. For example, statements and
23 arguments by lawyers are not evidence. They are simply
24 arguments in which the lawyers will tell you what they think
25 the evidence will prove or has proven and how they think you

1 should analyze the evidence. You should give these arguments
2 only as much weight as is consistent with your common sense,
3 and you should, under no circumstances, consider their
4 arguments as evidence. Any statement I may make to you is not
5 evidence.

6 Questions by lawyers are not evidence. Only the
7 answers given by the witnesses are evidence. The question that
8 the attorneys ask is only important insofar as it places the
9 witness' answers in context. For example, if a witness is
10 asked during cross-examination or direct examination, it was
11 raining on June 2, wasn't it, and the witness answers no, based
12 on that question and answer alone, there is no evidence in the
13 case that it was raining on June 2.

14 Objections to questions are also not evidence.
15 Lawyers have an obligation to object when they believe that
16 evidence being offered is improper under the rules of evidence.
17 You should not be influenced merely by the making of an
18 objection. If I sustain the objection, you should ignore the
19 question and any answer that may have been given. If I
20 overrule the objection, you should treat the answer just like
21 any other. Any testimony that I exclude or strike or tell you
22 to disregard is not evidence and you must not consider it. If
23 I instruct you that some evidence is only to be considered for
24 a particular purpose, you must follow that instruction.
25 Anything you may have seen or heard about this case outside the

1 courtroom is not evidence and must be disregarded. You must
2 decide the case based solely on the evidence presented here in
3 this courtroom.

4 In deciding the facts of the case you'll have to make
5 decisions about the credibility of the witnesses, that is, how
6 truthful and believable they are. How do you decide what to
7 believe and what not to believe? You are going to listen to
8 the witnesses, watch them and observe them and then decide as
9 you would decide such questions in your ordinary lives, did the
10 witness know what he or she was talking about? Was the witness
11 candid, honest, open, and truthful? Or did the witness appear
12 to be falsifying, exaggerating, or distorting what happened?
13 Is there any reason to think the witness might be lying or just
14 plain mistaken about what they are telling you?

15 Sometimes it's not so much what a witness says but how
16 he or she says it that may give you a clue as to whether or not
17 to accept that witness' version of an incident or an event as
18 credible or as believable. In short, the way a witness
19 testifies may play an important part in your reaching a
20 judgment as to whether or not you can accept the witness'
21 testimony as reliable. You need to use your common sense and
22 your life experience in evaluating each witness' testimony.

23 As the trial proceeds you may develop impressions of a
24 witness or a particular issue. You must not allow these
25 impressions to become fixed or hardened. In other words, you

1 shouldn't make up your mind right away. If you do, in a sense
2 you prevent yourself from considering the testimony of other
3 witnesses or other evidence that may be presented after the
4 witness or witnesses you have heard. This would be unfair to
5 one side or the other. A case can only be presented step by
6 step, witness by witness. We know from experience that
7 frequently one person's initial description of an event might
8 sound impressive and even compelling. But when we hear another
9 person's version of the same event, or even the same witness
10 cross-examined about the event, what seemed to be very
11 compelling and impressive may fall apart or become less
12 convincing. Please remember that there may be another side to
13 any witness' story.

14 You will use your common sense and good judgment in
15 evaluating each witness' testimony based on all the
16 circumstances. You must keep an open mind until the trial is
17 over. You should not reach any conclusions until you have all
18 the evidence before you.

19 There are three basic rules about a criminal case that
20 I ask you to keep in mind throughout the trial.

21 First, the defendant is presumed innocent until proven
22 guilty. The indictment brought by the government against the
23 defendant is only an accusation and nothing more. It is not
24 proof of guilt or anything else. The defendant starts out with
25 a clean slate.

1 Second, the burden of proof is on the government until
2 the very end of the case. A defendant has no burden to prove
3 his innocence or to present any evidence or to testify. Since
4 the defendant has the right to remain silent, the law prohibits
5 you from arriving at your verdict by considering that the
6 defendant may not have testified.

7 Third, the government must prove the defendant's guilt
8 beyond a reasonable doubt. I will give you further
9 instructions on this point later. But, as I've said many times
10 already, you should bear in mind in this respect that a
11 criminal case has a higher standard of proof than applies in
12 the civil case and, as I've said to those who sat on grand
13 juries, a much higher standard of proof than is used at the
14 grand jury stage.

15 In order to ensure that you decide the case based
16 solely on the evidence and that you are not influenced in any
17 way by anything that might occur outside the courtroom, I must
18 give you the following instructions: First, don't discuss this
19 case among yourselves or with anyone else, including members of
20 your family or your friends. You may tell your family that you
21 are a juror in a case, but don't tell them anything else until
22 after you have been discharged by me at the end of the trial.
23 Don't communicate with anyone about this case on your cell
24 phone, through e-mail or text message, on Twitter or through a
25 blog or website, whether Facebook, Google or any other form of

1 social media.

2 Also, you may discuss the case among yourselves only
3 after all the evidence is in and the case has been given to you
4 to decide in the jury room. This rule is important because
5 experience has shown that when someone expresses an opinion
6 about a witness or the case, they begin to identify more
7 strongly with that opinion. And since it's important, critical
8 that you keep an open mind until you have heard all the
9 evidence, you should not discuss the case with anyone,
10 including your fellow jurors, or communicate about the case in
11 any fashion until the case is given to you at the end of the
12 trial for you to reach a verdict.

13 Don't read anything in the newspapers or over the
14 Internet or anywhere else about the case. Don't listen to or
15 watch any reporting about the case, if it should be broadcast
16 on TV or over the radio. Don't let anyone speak to you about
17 the case. If you are approached by anyone to speak about it,
18 tell them the judge has directed you not to do so. If anyone
19 seeks to contact you or contacts you about the case, you must
20 immediately report that to me.

21 Don't do any research or any investigation about the
22 case on your own. Don't visit any place you may hear described
23 during the trial. Also, be sure that I'm informed if someone
24 you know comes into the courtroom. This is a public trial, so
25 that could happen. But it's important you did not hear from

1 them what may have happened in the courtroom while the jury was
2 not present.

3 If you should see a friend or relative or acquaintance
4 come into court, please send a note to me through Mr. Ruocco at
5 your first opportunity.

6 The attorneys, the parties and the witnesses are not
7 supposed to talk to the jury outside the courtroom, even to
8 offer a friendly greeting. If you happen to see any of them
9 outside the courtroom, they will not and should not speak to
10 you. Please don't take any offense. They are only acting
11 properly by doing so.

12 The parties are entitled to have you render a verdict
13 in this case on the basis of your independent evaluation of the
14 evidence presented here in the courtroom. Obviously, speaking
15 to others about the case or exposing yourself to information
16 outside the courtroom would compromise your service and the
17 duty of complete fairness that you owe to the parties.

18 Finally, let me say a few words about trial procedure.
19 The trial has three parts: First, the lawyers have the
20 opportunity to make an opening statement to you. These opening
21 statements are not evidence. The purpose of opening statements
22 is for the lawyers to give you a preview or roadmap of what
23 they think the evidence will be. Actual evidence, however,
24 only comes from the witnesses and the exhibits that are
25 received in evidence.

1 After the opening statements you will hear testimony
2 from witnesses. Because the government has the burden of
3 proof, the government calls its witnesses first. Each witness
4 will first give direct testimony and then he or she may be
5 cross-examined by the other side. Sometimes there is redirect
6 testimony and recross-examination. Also, exhibits and
7 stipulations or agreements as to facts may be received in
8 evidence.

9 Following the government's case the defendant may, but
10 is not required to, present witnesses and other evidence. If
11 the defense calls witnesses, those witnesses will be examined
12 and cross-examined, just as the government's witnesses were.
13 If the defendant presents evidence, it's possible the
14 government may then present some rebuttal to that evidence. Of
15 course the defendant never has to testify or present any
16 evidence at all. The burden of proof remains at all times on
17 the government.

18 Finally, after all the evidence has been received,
19 each side will have an opportunity to make closing arguments to
20 you. The lawyers will review the evidence with you and make
21 arguments as to what conclusions they think you should or
22 should not draw from the evidence. These arguments also are
23 not themselves evidence, but they may be helpful to you in
24 reviewing the evidence during your deliberations.

25 After these closing arguments, or summations, as they

1 are called, I will give you detailed information and
2 instructions as to the law that applies and controls in this
3 case, and you must of course follow those instructions.

4 After you receive my instructions on the law, you will
5 go into the jury room to deliberate and discuss the evidence in
6 order to decide the facts and render your verdict.

7 From time to time during the trial it may be necessary
8 for me to talk with the lawyers out of the hearing of the jury
9 either by having a conference up here at the bench when the
10 jury is present in the courtroom or by calling a recess. The
11 lawyers and I will do this as little as possible. Please
12 understand that while you are waiting we are working. The
13 purpose of any conference outside your hearing is not to keep
14 relevant information from you, but rather for me to decide
15 procedural issues or how proposed evidence should be treated
16 under the rules of evidence.

17 Is the government prepared to give its opening
18 statement?

19 MR. EGAN: We are, your Honor.

20 On the night of December 7, 2014, Louisiana state
21 police pulled over a white SUV as it made its way north on the
22 highway outside New Orleans. Now for most people on the
23 highway that night, that white SUV looked like a pretty
24 ordinary car. Even upon closer inspection, very few people
25 would have noticed the things that were a little bit odd about

1 the back seat, the mismatched plastic molding, how the seat
2 didn't quite work.

3 But the driver of that car knew a secret. The driver
4 of that car knew that if he sat in the driver's seat, pushed
5 the lock button, pumped the brake five times, and pulled up on
6 the window buttons, two hydraulic pistons would lift the bench
7 off of that back seat, revealing a large secret compartment, a
8 large secret compartment that on that night contained five
9 tightly wrapped bundles of cocaine, each weighing about a
10 kilogram, that the driver was transporting from Louisiana up to
11 New Jersey.

12 But the driver wasn't the only person who knew about
13 that compartment. The two agents from the Drug Enforcement
14 Administration who had followed the driver from New Jersey down
15 to Louisiana that weekend, they also knew about that
16 compartment. When they looked in that compartment after the
17 state troopers had pulled them over, they found those drugs
18 stashed in that compartment.

19 And that's why we are here today, ladies and
20 gentlemen, because the driver of that car is in the courtroom
21 today. The defendant, Sandy Gomez, was the man behind the
22 wheel that night. And based on what the agents found in that
23 compartment, based on everything that they had learned in their
24 investigation that led them to follow him to Louisiana in the
25 first place, the defendant is charged with one count of

1 conspiring to possess that cocaine with the intent to
2 distribute it once he got back up to the northeast. The
3 evidence at this trial will prove that the defendant is guilty
4 as charged.

5 Now, I want to take a couple of minutes to tell you
6 about what the government is going to prove at this trial and
7 then take a couple of minutes to tell you how the government is
8 going to prove it.

9 First, the government will prove that in the late fall
10 of 2014, the defendant, Sandy Gomez, came up from Louisiana to
11 New Jersey to ask his brother, Jorge Gomez, who help him get 25
12 to 50 kilograms of cocaine from Louisiana to New Jersey. See,
13 the defendant had someone in Louisiana who was willing to give
14 him large quantities of cocaine to distribute in and around New
15 York.

16 Jorge and his former girlfriend, Caronlay Ramon-Baez,
17 agreed and in November 2014, Caronlay flew with the defendant
18 down to New Orleans to pick up the drugs. But the source
19 wouldn't give them the drugs because they didn't have a car.
20 The source told them to go and get a car with a secret
21 compartment, as it's sometimes called, a trap large enough to
22 carry the drugs that they were there to pick up.

23 You will learn that the defendant returned to New
24 Jersey and asked Jorge to help him find a car with a trap.
25 Jorge called someone he knew in Paterson, New Jersey, who

1 reached out to someone who specialized in renting exactly that
2 kind of car.

3 Unfortunately for Jorge, that person was a
4 confidential informant for the DEA, and he promptly reached out
5 to the agents and told them, there is someone in Paterson
6 looking to get a car with a trap big enough to carry large
7 quantities of narcotics, and he passed on the number that Jorge
8 had given to reach him.

9 So the agents contacted another confidential informant
10 they work with, a man named Tony, and they told Tony to pose as
11 someone who rented such cars. Tony reached out to Jorge and
12 negotiated to rent a car with a secret compartment large
13 enough, the white SUV, to carry 25 to 30 kilos per trip. The
14 DEA then gave Tony a car to pass on to Jorge, a car the DEA can
15 track.

16 Shortly after they gave the car you will learn that
17 the agents were alerted that the car was on the move and two
18 agents followed them. Again, the defendant, Sandy Gomez, was
19 at the wheel and, again, Caronlay Ramon-Baez was with them.
20 They followed them as they drove two days down to New Orleans
21 where the two of them checked into a motel.

22 You will hear how on December 7, a day after they
23 arrived in New Orleans, the defendant left the room to go pick
24 up the narcotics as the DEA conducted surveillance. You will
25 hear how the defendant returned to the room with only five of

1 the kilograms, explaining to Caronlay that the source hadn't
2 wanted to give him all of it until he learned he could
3 transport this much. You will hear that as they started their
4 way back to New Jersey, a Louisiana state trooper, working with
5 the DEA, pulled him over, opened that compartment, and found
6 those drugs. That's what the government is going to prove at
7 this trial.

8 As I said, I want to take a couple of minutes to tell
9 you how we are going to prove it. First, you will hear from
10 some law enforcement agents who worked on this case. An agent
11 from the DEA will explain how, using informants, they were able
12 to pass the defendant a car, the very car with the trap he was
13 looking for, but one that the DEA could track and therefore
14 intercept the drugs. He will explain how the day after they
15 arrived, agents watched the defendant as he spent hours driving
16 around New Orleans by himself, met up with another individual
17 before returning to his hotel room by himself. And you will
18 hear from the Louisiana state trooper who stopped them, as the
19 defendant and Caronlay left town later that night and who found
20 those five kilograms stashed in the trap.

21 In addition, you will see transcripts of recordings
22 made by the informant of conversations the informant had with
23 Jorge Gomez and with the defendant, transcripts of recordings
24 where Jorge tells the informant he needs a car that can carry
25 the 25 to 50 kilos of cocaine they were expecting to bring from

1 Louisiana, transcripts of the defendant himself talking to the
2 informant about his concerns about the trap and whether it
3 would be discovered before the informant assured him this car
4 has been used many times. There won't be any problems.

5 You will see documentary evidence. Flight records
6 will confirm that first trip that Caronlay and the defendant
7 took to New Orleans. You'll see text messages between Caronlay
8 and Jorge Gomez during that second trip to New Orleans where
9 Caronlay tells Jorge that the defendant has already gone out to
10 meet the people who are going to give them the drugs and that
11 she was waiting for him to return.

12 Finally, you will hear from Caronlay Ramon-Baez
13 herself, the person who is sitting next to the defendant the
14 entire time. She will tell you all about that first trip to
15 New Orleans, the failed trip, and she will explain to you why
16 they were looking for a car with a trap in the first place.
17 She will tell you all about their trip down to New Orleans the
18 second time, how they took little steps like covering the name
19 of the state on their license plate or driving at night, in
20 hopes of minimizing the chance that they would attract the
21 attention of law enforcement. She will tell you how the
22 defendant was planning to pick up dozens of kilos of cocaine
23 but only came back with five, explaining that the source
24 wouldn't give them any more at that point.

25 Now, given her position, Ms. Ramon-Baez is in a unique

1 position to give you an insider's view of this crime as almost
2 no other witness could. But make no mistake, Ms. Ramon-Baez
3 committed a crime. I expect she is going to get on that stand
4 and she will tell you that she conspired with this defendant
5 and his brother to commit this crime. And I expect that she
6 will tell you that she is testifying here to get leniency at
7 sentencing. When you consider her testimony you should
8 consider that. But you should also consider the extent to
9 which her testimony is corroborated by other evidence you are
10 going to see in this case, testimony from the other witnesses,
11 the documentary evidence I just discussed, and those
12 transcripts.

13 I don't think this will be a very long trial, but it
14 is an important case, important to the government and important
15 to the defendant. While you are here I am going to ask you to
16 do three things. First, listen to the evidence very, very
17 carefully; two, listen to Judge Gardephe's instructions on the
18 law; and, three, perhaps most importantly, use your common
19 sense, the same common sense that you use in your everyday
20 lives. And if you do that, when all is said and done, you will
21 return the only verdict that is consistent with all the
22 evidence you will see and hear in this case, and that is that
23 the defendant is guilty. Thank you.

24 THE COURT: Ms. Todd.

25 MS. TODD: Thank you, your Honor.

1 Good afternoon, ladies and gentlemen. My name is
2 Natali Todd and I represent Mr. Gomez, who is seated at the
3 table with me.

4 This is a criminal case, as you have already been
5 informed. Criminal cases are different. In all of my years of
6 experience they are different from civil cases, from commercial
7 litigation, from any other type of case. Criminal cases
8 involve the most serious kind of government action. It
9 involves one's liberty and one's freedom. So as the government
10 says, this is an important case to the government. It's also
11 an important case to Mr. Gomez.

12 The government evidence we believe draws on the
13 relationships between Mr. Gomez and his brother Jorge Gomez and
14 Jorge's girlfriend, Caronlay Ramon-Baez. And Ms. Baez was
15 also, as the government indicated, charged in this conspiracy.
16 She is now cooperating with the government and will be taking
17 the witness stand and testifying. We do not expect the
18 evidence to establish that there was this close brotherly
19 relationship to suggest that there is the trust that is
20 required for this conspiracy between the brothers. In fact,
21 they have not spoken in many years.

22 Mr. Gomez did in fact, as the evidence will establish,
23 come to New York in November of 2014, late 2014, and he came to
24 New York once, not to engage in drug trafficking, but the
25 evidence will establish that he came to New York from Texas,

1 where he had been living since 2003, to attend a funeral of a
2 close relative. That's what we expect the evidence to
3 establish.

4 Now, the government must prove beyond a reasonable
5 doubt that not only did Mr. Sandy Gomez agree with his brother
6 and his brother's girlfriend to commit this crime, but that he
7 did so knowingly. Yes, there was a trap in the vehicle that he
8 was driving. What we expect the evidence to establish is that
9 Mr. Gomez had no idea there was a trap in the vehicle. There
10 are in fact telephone recordings between the confidential
11 informant, who presented himself as a mechanic, who had
12 numerous conversations with Jorge Gomez, and at one point in
13 time spoke with Sandy Gomez. We expect the evidence to
14 establish that there was no discussion between Sandy Gomez and
15 this cooperating informant about his discomfort about
16 visibility of a trap and that the discussion, as the evidence
17 will establish during that conversation, was about a broken
18 seat, the broken back seat wherein the confidential informant
19 ultimately admitted to Mr. Gomez that the seat was in fact
20 broken.

21 There is also a recording between Jorge Gomez and the
22 confidential informant negotiating the price for the trap of
23 the vehicle and quantities of narcotics to be transported in
24 that vehicle. That meeting was surveilled by DEA agents who
25 will testify as to their observation. The evidence will show

1 that Mr. Sandy Gomez was never present at this meeting, was
2 never present as part of the negotiation for the price of the
3 vehicle, was never present in attempting to get a vehicle, and
4 that the only three people that were present were Jorge Gomez,
5 the confidential informant, and George's girlfriend, Caronlay
6 Ramon-Baez, who has worked with George in his narcotics
7 trafficking business over the years. That evidence will be
8 established at this trial.

9 And this confidential informant's name is Antonio
10 Jimenez Baez and you will learn throughout the trial, as the
11 evidence comes in, that he too at the time that he was
12 assisting DEA agents was under investigation himself for
13 narcotics trafficking. And so when you listen to the evidence
14 of these two witnesses, you should listen carefully, scrutinize
15 their testimony carefully, and I will agree with the
16 government, use your common sense. Use your everyday
17 experience in assessing the reliability and the believability
18 of these witnesses.

19 As I indicated, Sandy Gomez resided in Texas where he
20 has worked very jobs, has a family there. Hasn't been to New
21 York in a number of years. And the evidence will establish
22 that, that the only time he came to New York was in November
23 2014. This case did not begin with Sandy Gomez. This case
24 began with Jorge Gomez, who was being investigated based on his
25 numerous contacts with other people participating in narcotics

1 trafficking in New Jersey. So the informant informed the DEA.
2 They started looking at it. George Gomez did not work alone.
3 He worked very closely with Caronlay Ramon-Baez, who is his
4 girlfriend, and she too will be testifying here today.

5 As I indicated, I am going to ask you very carefully
6 to scrutinize the evidence, withhold your judgment until all of
7 the evidence is in, and wait for the Court's instruction
8 because it is my expectation that at the end of this trial
9 Sandy Gomez will be proven not guilty and you will come to that
10 conclusion, that there is no evidence that establishes that he
11 knowingly and willingly participated in this conspiracy for
12 which he is charged. Thank you.

13 THE COURT: Is the government prepared to begin?

14 MR. EGAN: Yes, your Honor.

15 THE COURT: Please call your first witness.

16 MR. EGAN: The government calls Detective Jose Garcia.
17 JOSE M. GARCIA,

18 called as a witness by the Government,

19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. EGAN:

22 Q. Good afternoon, Mr. Garcia.

23 A. Good afternoon.

24 Q. Are you employed?

25 A. Yes.

1 Q. By whom?

2 A. Paterson Police Department.

3 Q. How long have you been employed by the Paterson Police
4 Department?

5 A. It will be 26 years in December.

6 Q. What did you do before you worked for the Paterson Police
7 Department?

8 A. I was a mailman.

9 Q. For how long?

10 A. For four years.

11 Q. And prior to that?

12 A. I was in the army.

13 Q. What is your current assignment with the Paterson Police
14 Department?

15 A. I'm assigned to the DEA as a task force officer.

16 Q. What is your rank within the Paterson Police Department?

17 A. A detective.

18 Q. What is a task force officer?

19 A. What they do, they don't have enough special agents in DEA,
20 so they use detectives from the various police departments to
21 assist them in doing jobs.

22 Q. How long have you been a task force officer assigned to the
23 DEA?

24 A. Thirteen years.

25 Q. Are you assigned to a particular group within the DEA?

1 A. Yes. Group 5.

2 Q. Group 5?

3 A. Yes.

4 Q. What area does group 5 cover?

5 A. Everywhere. Anywhere they need us.

6 Q. Anywhere in the country?

7 A. Yes.

8 Q. Where are you based?

9 A. Newark, New Jersey.

10 Q. What are some of your duties and responsibilities as a task
11 force officer with the DEA?

12 A. We do money laundering, narcotics. Basically that's what
13 we do.

14 Q. Those are the crimes you investigate?

15 A. Yes.

16 Q. As a task force officer what are your assignments?

17 A. Whatever they need me to do, surveillance, undercover, lot
18 of paperwork.

19 Q. Did you ever participate in an investigation of an
20 individual named Sandy Gomez?

21 A. Yes.

22 Q. Would you recognize Sandy Gomez if you saw him today?

23 A. Yes.

24 Q. Do you see that individual in the courtroom today?

25 A. Yes.

1 Q. Can you point him out and describe an article of clothing
2 that he's wearing.

3 A. He's sitting over there.

4 Q. Front table or back table?

5 A. Front table, behind this gentleman and this woman here.

6 Got a bald head and he is bearing a black suit with a light
7 shirt.

8 MR. EGAN: Indicating the defendant, your Honor.

9 THE COURT: Yes.

10 Q. Were you present when the defendant was arrested?

11 A. I was -- yeah, I was there doing the job. Not present at
12 the time he was arrested.

13 Q. When was he arrested?

14 A. December 7, 2014.

15 Q. Where did that take place?

16 A. Right outside of New Orleans, but in Louisiana.

17 Q. How did you first get involved in that investigation?

18 A. I was called by a confidential source who told me someone
19 approached him about needing a trapped vehicle so they can move
20 drugs.

21 Q. When you say a trapped vehicle, what is a trapped vehicle?

22 A. A trapped vehicle is a vehicle with a hidden compartment.

23 Q. You've had experience with trapped vehicles?

24 A. Yes.

25 Q. What sort of hidden compartment? What do you mean by

1 hidden compartment?

2 A. They take a vehicle and they put it in a certain
3 compartment, they will either hollow it out and then repair
4 around it so you can't see it from the outside of the vehicle,
5 and they will put hydraulics on there, and there is a system
6 for them to open and close it so that you can't detect whatever
7 is in the hidden compartment.

8 Q. In addition to telling you that there was this person who
9 was looking for a trapped vehicle, did the confidential source
10 give you any other information about this person?

11 A. Yes. He told me that the person wanted to move anywhere
12 from 20 to 25 kilos of cocaine.

13 Q. Did the confidential source have a way to contact the
14 person who was looking for the vehicle?

15 A. Yes. By phone.

16 Q. Approximately how long before the arrest that you described
17 on December 7 were you contacted by the confidential source?

18 A. I think it was the month before. So it was about a month,
19 month before, in November.

20 Q. Some time in November?

21 A. Of 2014, yes.

22 Q. What steps did you take and your group take next after
23 getting this information?

24 A. We spoke to our supervisor, who made phone calls in order
25 to find out if we had any vehicles with trapped compartments.

1 Q. What was the plan?

2 A. The plan was to give the person who wanted the trapped
3 vehicle the vehicle in order for us to surveil him, and we
4 would know because these trapped vehicles that belonged to the
5 DEA have GPS in them and they have alarms that when the traps
6 are opened, they alert you. They have some sort of an app that
7 alerts you.

8 Q. It has both a tracking device in the car --

9 A. Correct.

10 Q. -- and you mentioned an alarm. How does that alarm work?

11 A. It works on a computer. You put the program into your
12 computer. And when the trap is opened or closed, it's
13 indicated through your computer.

14 Q. Did there come a time where you or your group determined
15 whether you would be able to find such a vehicle?

16 A. Yes.

17 Q. When was that?

18 A. During that month he spoke to the -- an agent down in, I
19 think it's Camden office, and they told him they had several
20 vehicles with traps in it and also the GPS system.

21 Q. What was the plan in terms of how you were going to get
22 this vehicle into the hands of the person who was looking for
23 it?

24 A. We were going to drive the vehicle up to northern New
25 Jersey, and we used a different source of information that

1 deals with an agent called Joe Dill. And this gentleman was
2 going to be introduced to the gentleman who wanted the vehicle,
3 and they were going to find a way of getting the vehicle to
4 him.

5 Q. So you were going to use another confidential source to
6 give it to this person?

7 A. Correct. He was to be introduced by the initial
8 confidential source that contacted me.

9 Q. Do you know the name of that confidential informant that
10 was going to be providing the vehicle?

11 A. Yes. Tony.

12 Q. Tony is how you know him?

13 A. Yes.

14 Q. And what role, if any, was Tony going to play?

15 A. He was going -- in essence, he was going to play the owner
16 or the middleman with the trapped vehicle. He was going to
17 hand over the trapped vehicle to the gentleman who wanted it.

18 Q. Did there come a time when you actually obtained the car?

19 A. Yes.

20 Q. Who went and got it?

21 A. TFO, Michael Patti and myself.

22 Q. Where did you get it from?

23 A. In the Camden office, down by the Cherry Hill area.

24 THE COURT: What does TFO mean?

25 THE WITNESS: Task force officer.

1 Q. What kind of kind of car was it?

2 A. It was a Yukon, light-colored SUV.

3 MR. EGAN: If I can approach the witness, your Honor.

4 THE COURT: Yes.

5 Q. I'm handing you a folder with a number of documents in it.

6 If you can pull out and look at Government Exhibit 100 marked
7 for identification.

8 A. Yes.

9 Q. Do you recognize what's depicted in that photo?

10 A. Yes.

11 Q. What is it?

12 A. Yukon Denali, GMC.

13 Q. How do you recognize it?

14 A. This is the vehicle that we picked up in the Cherry Hill
15 area, by Camden office, with the trap and the GPS.

16 MR. EGAN: The government would seek to admit
17 Government Exhibit 100, your Honor.

18 MS. TODD: No objection.

19 THE COURT: Government Exhibit 100 is received.

20 (Government Exhibit 100 received in evidence)

21 MR. EGAN: If we can publish that to the jury.

22 THE COURT: You may.

23 Q. Government Exhibit 100 is the car that you provided to
24 Tony?

25 A. Yes.

1 Q. You said you went down to Camden. What did you do
2 specifically once you got that car?

3 A. We drove it back up to the Newark office, and the following
4 day we met with Tony so Tony can give it to the person who
5 wanted the vehicle.

6 Q. Did you or agents from your group check out the vehicle
7 before you gave it to Tony?

8 A. Yes, we did. While we were in Camden, I guess the person
9 in charge of these vehicles showed us how to open and close the
10 trap compartment and gave us the app so we can see it on our
11 laptops and also gave us the GPS.

12 Q. When you say gave us the app, you are referring to that
13 trap alarm you described before?

14 A. Yes.

15 Q. Did you test either of those?

16 A. Yes, we did.

17 Q. Which ones?

18 A. Both.

19 Q. What did you find?

20 A. They were in working order.

21 Q. Consistently?

22 A. Not consistently.

23 Q. What do you mean by not consistently?

24 A. As we were heading down to New Orleans, it gave us some
25 problems.

1 Q. Which one?

2 A. The GPS was not working for parts of the travel when we
3 were going down there.

4 Q. What about the trap alarm? Did you have any problems with
5 the trap alarm?

6 A. At the beginning we didn't, but I think -- I don't know
7 what happened to the vehicle once we arrived to New Orleans,
8 but it was giving us a hard time.

9 Q. Once you had come up and tested those systems, what did you
10 do next?

11 A. We met with our confidential source, Tony, and he spoke to
12 the gentleman who wanted the vehicle, and they set up a meet
13 date.

14 Q. Do you remember if they met the same day that you brought
15 the car up or whether it was another day?

16 A. No. It was the following day.

17 Q. Were you present when Tony met with the individual who was
18 looking for the car?

19 A. Yes. I was part of the surveillance.

20 Q. What was your role?

21 A. Just to watch and see where the cars are traveling once
22 they started traveling.

23 Q. Were you at a particular location?

24 A. We were in the area of Market and Madison in Paterson, New
25 Jersey.

1 Q. Did you observe who Tony met with that day, if anyone?

2 A. Yes. He met with defendant, with a person named Jorge
3 Gomez.

4 Q. Describe your observations of the meeting.

5 A. I didn't actually observe Gomez arrive that day. At that
6 moment with the CS.

7 THE COURT: Who is the CS?

8 THE WITNESS: Tony, the confidential source.

9 Q. You didn't observe the initial meeting between Tony and
10 Jorge?

11 A. No. I was a couple of blocks away.

12 Q. What did you observe?

13 A. I observed them when they arrived at 28th Street in
14 Paterson, New Jersey, and drove up into an apartment complex,
15 like garden apartments.

16 Q. So the first time you saw them, describe who you saw and
17 how they got to that location.

18 A. I saw -- they drove in tandem a black Mercedes Benz, which
19 was driven by George Gomez, and Tony was driving the Yukon and
20 they were driving together to Jorge's house.

21 Q. They were both in the Yukon?

22 A. No, no. Jorge was in his car, a black Mercedes.

23 Q. If I can ask you to look in that folder one more time and
24 look at Government Exhibit No. 1. Do you recognize the person
25 in Government Exhibit 1?

1 A. Yes.

2 Q. Who is that?

3 A. That's Jorge Gomez.

4 Q. How do you recognize that person?

5 A. He was the one that met with Tony that wanted the vehicle
6 initially.

7 MR. EGAN: The government seeks to admit Government
8 Exhibit 1.

9 MS. TODD: Without objection.

10 THE COURT: Government Exhibit 1 is received.

11 (Government Exhibit 1 received in evidence)

12 MR. EGAN: May we publish it to the jury.

13 THE COURT: You may.

14 Q. You said, I believe, that as we are waiting for that to be
15 published that you were in the area of Market and Madison, is
16 that right?

17 A. Yes, sir.

18 Q. What is your understanding of what that location is?

19 A. There is a gas station, there is a church, the fire
20 department is around the corner on Madison Avenue, and there is
21 a pharmacy and some other stores.

22 Q. So as they arrived, what vehicle was Jorge Gomez?

23 A. In a black Mercedes Benz.

24 Q. And the person you called Tony, what vehicle were they in?

25 A. He was in the Yukon.

1 Q. What happened when they arrived at that area?

2 A. They spoke and -- I didn't actually see, observe that. It
3 was coming over the radio that they spoke for a minute or two
4 and then they drove away.

5 Q. What about when they got to the location where you were?

6 A. I asked where it was on the surveillance team that followed
7 them to 28th Street and observed them going up into a driveway
8 that leads into an apartment complex, but it sits higher up off
9 of the road.

10 Q. When you observed them they were going up to a location and
11 parked their cars in a driveway?

12 A. Correct.

13 Q. What happened then?

14 A. Well, I moved away from there, but, like I said, over the
15 radio they were talking about that they were doing something in
16 the vehicle, in the Yukon, Jorge and Tony, and then Jorge and
17 Tony went into an apartment.

18 Q. And approximately how long were they in that apartment for?

19 A. I am going to say about 15 minutes, maybe, approximately.

20 Q. What happened then?

21 A. After that, I observed Tony walking with a female,
22 darker-skin female, Hispanic, and they walked to a green Jeep
23 Liberty and drove off.

24 Q. Did you ever learn the name of the female?

25 A. Yes.

1 Q. What was her name?

2 A. Caronlay Baez.

3 Q. If you can look at Government Exhibit 2 in your folder
4 there.

5 A. Yes.

6 Q. Do you recognize the person in Government Exhibit 2?

7 A. Yes.

8 Q. Who is that?

9 A. Caronlay Baez.

10 Q. How do you recognize her?

11 A. She was from the day of the job. She was the one that got
12 into the vehicle, that Jeep Liberty, with our source, Tony, and
13 also she was arrested down in New Orleans.

14 MR. EGAN: The government would ask to admit
15 Government Exhibit 2.

16 MS. TODD: Without objection, your Honor.

17 THE COURT: Government Exhibit 2 is received.

18 (Government Exhibit 2 received in evidence)

19 MR. EGAN: If we could publish that to the jury.

20 THE COURT: Yes.

21 Q. So this individual, Ms. Baez, you say came out of the
22 apartment, just her and Tony?

23 A. Yes.

24 Q. And what car did they get into?

25 A. Into a green Jeep Liberty, SUV.

1 Q. What happened then?

2 A. Then we surveilled them to the area of Market and Madison.
3 And after she -- after Tony got out of the vehicle, we stopped
4 surveillance.

5 Q. So the car in Government Exhibit 100 remained behind at the
6 apartment?

7 A. Correct.

8 Q. Did you ever conduct additional surveillance involving that
9 car?

10 A. We made periodic stops at the house just to make sure the
11 vehicle was there because it was a new system for us and we
12 just wanted to make sure that it was working properly. So
13 every once in a while, depending on movement, the alarms go off
14 with the GPS. Although it's not moving, it has different
15 colors, indicators that say, when a vehicle is stopped or when
16 the vehicle is actually traveling.

17 Q. And other than these sort of spot checks of the systems you
18 were using, did there come a time when you conducted more
19 long-term surveillance on that video?

20 A. Yes.

21 Q. When was that?

22 A. That was on December 4.

23 Q. Describe what happened that day.

24 A. That day the trap alarm kept ringing like somebody was
25 testing out the trap. It rang several times. And then closer

1 to 9:00 at night that evening the vehicle started to move.

2 Q. What did you do when you found out the vehicle was moving?

3 A. TFO Michael Patti and myself, we had our own vehicle, and
4 we started surveilling that vehicle.

5 Q. Did there come a time when you caught up with that car?

6 A. Yes. We caught up to it at a gas station in -- I don't
7 even know what state it was.

8 Q. Who was in the car?

9 A. Sandy Gomez and Caronlay Baez.

10 Q. You mentioned there was another detective in the car with
11 you?

12 A. Yes.

13 Q. Who was that?

14 A. Michael Patti.

15 Q. Describe where the defendant and Ms. Ramon-Baez went when.

16 A. After that they continued traveling down in the early
17 morning of the 5th. They ended up in Virginia, somewhere in
18 Virginia. I don't know what town.

19 Q. They drove through the night to get to Virginia?

20 A. Yes.

21 Q. What happened when they arrived in Virginia?

22 A. They stopped at a motel and we didn't see them for a few
23 hours after that. We were surveilling the area because there
24 was a strip mall across the street that sat high so we could
25 see down towards the motel. Also we were assisted by Virginia

1 DEA.

2 Q. As you were sitting there, what happened next?

3 A. Later on that evening we saw them going back -- getting
4 back into the vehicle and they started moving again.

5 Q. This is, again, you said towards the evening of the 5th
6 now?

7 A. Correct.

8 Q. What happened then? Where did they go?

9 A. They started traveling down south, and we followed them all
10 the way to the borderline of Mississippi and Louisiana, where
11 we were backed by DEA in Louisiana and also Louisiana State
12 Police.

13 Q. Was the GPS tracker working at this point?

14 A. No.

15 Q. How were you guys following them?

16 A. We were just following them. There was a lot of rain and
17 just making sure we kept --

18 MS. TODD: Objection. Move to strike.

19 THE COURT: I'll hear you at side bar.

20 (Continued on next page)

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1 (At the side bar)

2 THE COURT: I didn't understand the basis for the
3 objection, so I thought it was better to do it here.

4 MS. TODD: The basis for objection is, the question
5 was: Were you following him to Virginia? Yes. And how were
6 you doing that? Just following him. Then he proceeds to
7 describe the weather conditions and whatever else was
8 happening, which goes beyond what the question asked for.

9 THE COURT: Give me a moment.

10 They are already at the border of Louisiana and
11 Mississippi. He testified that they were at the border of
12 Louisiana and Mississippi. That's where they met up with the
13 DEA and Louisiana state troopers. Then the next question: Was
14 the GPS working? The answer was no. And then the next
15 question, the one you objected to.

16 MS. TODD: How were you following it or were you just
17 following it, which is fine.

18 THE COURT: And then he did start talking about the
19 fact that it was raining.

20 MS. TODD: Right.

21 THE COURT: That's what you object to.

22 MS. TODD: Yes.

23 THE COURT: You'll elicit from him what the weather
24 conditions were.

25 Your motion to strike is directed to the fact that it

1 was raining?

2 MS. TODD: Right. To everything after, we were just
3 following it.

4 THE COURT: That motion is granted. You can elicit.

5 MS. TODD: I didn't want to seem to be interruptive.
6 With all of the questions and responses he speaks of we saw, we
7 observed. Caution the witness just to talk about what he
8 observed.

9 MR. EGAN: Ok.

10 (Continued on next page)

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1 (In open court)

2 Q. You mentioned the GPS tracker wasn't working. What were
3 the weather conditions like that day?

4 A. It was raining.

5 Q. And at that time you and Detective Patti were just
6 maintaining visual surveillance then?

7 A. Correct.

8 Q. Describe what happened at that point, after you followed
9 them into Louisiana.

10 A. The DEA from Louisiana pretty much took over there, and we
11 were all just following and staying in radio communication, and
12 we observed them -- it was early in the morning.

13 MS. TODD: Objection.

14 THE COURT: Yes. If you could just tell us what you
15 saw. Ok.

16 THE WITNESS: Ok.

17 Q. If you can describe personally what you observed.

18 A. They were already in the hotel area, in the motel that they
19 went into, and we drove by. We could see the vehicle in the
20 motel in the outskirts of New Orleans.

21 Q. So you did not observe them go to the motel, but you drove
22 by the motel and saw the vehicle parked there?

23 A. Correct.

24 Q. What did you do at that point?

25 A. We went about seven or eight blocks away, and we just

1 parked there.

2 Q. Did there come a time when either of them left that day?

3 A. Yes. It was not evening yet. It was between 4 and 5:00.

4 Q. Who left?

5 A. Sandy and Caronlay.

6 Q. Where did they go?

7 A. They went to a Pep Boys and to a gas station, and they went
8 back to the motel.

9 Q. That you are aware of, did they go anywhere else that
10 night?

11 A. No.

12 Q. Was someone surveilling the motel that they were staying at
13 throughout the night?

14 A. Yes.

15 Q. Did you personally participate in that surveillance?

16 A. No.

17 Q. What instructions, if any, did you provide to the people
18 who were conducting the surveillance?

19 A. If the vehicle starts to move to give us a call.

20 Q. Were you alerted at any point that night?

21 A. No.

22 Q. The next day, so at this point December 7, did either of
23 them leave the apartment that day?

24 A. Yes. They left the motel.

25 Q. Who?

1 A. Sandy.

2 Q. At approximately what time?

3 A. It was before 12, so I am going to say between 11 and
4 12:00.

5 Q. Did you personally conduct surveillance?

6 A. Yes.

7 Q. Focusing particularly on what you observed, if you can
8 describe for the jury what you observed that day.

9 A. I observed them coming out of a store. I don't know. It
10 was a big store. And we observed him parked at several other
11 establishments, businesses.

12 THE COURT: When you say we, we don't know who you are
13 talking about. You have to indicate.

14 A. When I say we, I'm talking about Michael Patti because he
15 was with me in the vehicle.

16 Q. Understood. You and Detective Patti observed, you said,
17 him at an establishment?

18 MS. TODD: Objection, your Honor.

19 THE COURT: Just ask what they observed.

20 Q. Going back, describe personally what you and Detective
21 Patti observed that day.

22 MS. TODD: Objection to the form.

23 THE COURT: If you could just tell us what you
24 observed. We understand Mr. Patti was with you. If you could
25 focus on what you saw.

1 A. Ok. I observed him parked at several establishments. And
2 after that I observed him at -- near a strip mall and some
3 apartments. And he was with a black male in the vehicle.

4 Q. Did you see at what point that other individual got into
5 the car?

6 A. Well, no. Not me personally see, no.

7 Q. Describe when you first saw that other individual in the
8 car.

9 A. When I was at the strip mall, there were some apartments
10 across the street.

11 Q. Describe what you saw then.

12 A. I observed a black male leave the vehicle, but he went in
13 between cars and I couldn't see anymore where he went to. I
14 don't know if he went to the strip mall or I don't know if he
15 went to the apartments.

16 Q. Do you know who that individual is?

17 A. No.

18 Q. Did you ever observe that individual get back into the car?

19 A. No.

20 Q. What did you observe next?

21 A. After that, I observed when Sandy drove off from the area
22 and surveillance was again started.

23 Q. Where do you observe the defendant go next?

24 A. I didn't observe him, but he went back --

25 THE COURT: All right. If you didn't observe it, move

1 on.

2 Q. Approximately how long did you conduct surveillance of the
3 defendant that day, that afternoon?

4 A. Mostly the whole day. With him the whole day.

5 Q. When was the next time that you personally observed the
6 defendant?

7 A. I observed him at a gas station that evening, early
8 evening. It was around 7:00 in the evening. And I observed
9 him and Caronlay go to a restaurant, one of those fast food
10 restaurants, to pick up food.

11 Q. The next time you personally saw them, it was about 7:00?

12 A. Yes.

13 Q. Where did they go after the restaurant?

14 A. They started heading north, I guess, I don't know what
15 direction that is, but they started heading away from New
16 Orleans.

17 Q. What did you do then?

18 A. I left Patti off with someone else, and I just stayed at --
19 on the highway.

20 Q. Stayed on the highway?

21 A. Yes.

22 Q. Describe what you saw next.

23 A. At a distance I saw police lights.

24 (Continued on next page)

25

1 BY MR. EGAN:

2 Q. Police lights?

3 A. Yes.

4 Q. Did you participate personally in the stop of the
5 defendant?

6 A. No.

7 Q. And describe what you did after the defendant was stopped.

8 A. After the defendant was stopped, and I went to one of the
9 barracks in Louisiana State Police. I don't know what town; I
10 really don't know the area that well. And I met up with
11 Michael Patti and we spoke to Caronlay.

12 Q. For how long?

13 A. Not long.

14 Q. And then what did you do?

15 A. And then we left.

16 Q. Did you remain in Louisiana?

17 A. Until the next day, and then we, we left. We flew back to
18 New Jersey.

19 MR. EGAN: One moment, your Honor.

20 Nothing further, your Honor.

21 THE COURT: Cross-examination.

22 MS. TODD: Yes, your Honor.

23 CROSS-EXAMINATION

24 BY MS. TODD:

25 Q. Good afternoon, Agent Garcia.

1 A. Good afternoon.

2 Q. How are you?

3 A. Good.

4 Q. I'm going to ask you some questions regarding, first,
5 confidential informants who had led you to further the
6 government investigation. Not Mr. Jimenez-Baez, the first
7 person.

8 A. I don't know who Jimenez-Baez is.

9 Q. I'm sorry? There were two informants, correct?

10 A. Correct.

11 Q. One informant brought information about Jorge Gomez leading
12 trafficking, correct?

13 A. Correct.

14 Q. And the first informant brought information that Jorge
15 Gomez was involved in narcotics trafficking?

16 A. I'm sorry. Could you repeat that.

17 Q. The first informant --

18 A. Yes.

19 Q. -- informed them that Jorge Gomez was informed in your
20 narcotics trafficking.

21 A. That he wanted a trap vehicle.

22 Q. I'm sorry?

23 A. That Jorge Gomez wanted a trap vehicle.

24 Q. The first informant indicated that?

25 A. Yes.

1 Q. And this first informant, was he in regular contact with
2 Jorge Gomez?

3 A. I'm not sure.

4 Q. Did you develop information from phone records about Jorge
5 Gomez's drug trafficking?

6 A. I didn't do it, no.

7 Q. From the investigation, you were not aware of that?

8 A. From the investigation, yes.

9 Q. And so the phone communication between Jorge Gomez and this
10 confidential, the first confidential informant was one of high
11 volume, correct?

12 A. Well, I guess you would call it that way.

13 Q. It's -- what do you mean guess?

14 A. He gave me information, and I relayed it to my boss, and we
15 found the other confidential source, Tony. They spoke and Tony
16 was introduced to Jorge, and they took it from there. The
17 other guy was gone. He was in the wind, the other CS. We
18 didn't use him anymore. We didn't talk to him anymore.

19 Q. But that other CS was involved in narcotics trafficking,
20 correct?

21 A. The other CS?

22 Q. Yes.

23 A. Well, he knew traffickers, yes.

24 Q. And at that time, the DEA was not investigating Sandy
25 Gomez, correct?

1 A. Not that I'm aware of that, no.

2 Q. Now, the second individual, cooperating witness who is, you
3 called him Tony, is that Antonio Jimenez-Baez?

4 A. I don't know his full name. I know him as Tony.

5 Q. Do you know his last name?

6 A. No, I don't.

7 Q. But Tony was the second individual who provided information
8 about the Jorge needing a trap vehicle, correct?

9 A. Well, he ended up speaking with Jorge, yes. He didn't give
10 me information. He didn't have initial information. He spoke
11 to Jorge. He was introduced to Jorge and he spoke to Jorge and
12 Jorge told him that he needed a trap vehicle.

13 Q. And this confidential informant Tony, he was also under
14 investigation, correct?

15 A. Not by, not by me.

16 Q. Was he being prosecuted for narcotics crimes?

17 A. I'm not sure.

18 Q. So you have no information about whether he was being
19 prosecuted, whether he pleaded guilty, any of that?

20 A. I don't know, because he is a source for a special agent
21 named Dill.

22 Q. Now, you indicated that the vehicle that was provided to
23 Jorge Gomez had a secret compartment, correct?

24 A. Correct.

25 Q. And at the time the vehicle was provided to Jorge Gomez,

1 the informant was wearing a body wire, correct?

2 A. Yes, he was.

3 Q. And the body wire allowed for recording of that meeting,
4 correct?

5 A. Whatever meeting he was going to have with him, yes.

6 Q. The conversation between Jorge Gomez and the confidential
7 informant Tony was recorded, correct?

8 A. Correct.

9 Q. And were you able to listen to that conversation?

10 A. I didn't listen to it, no.

11 Q. Now, when you observed Tony meet at the location with
12 Jorge, Mr. Sandy Gomez was not present, correct?

13 A. Correct.

14 Q. Were you able to listen to the conversation with respect to
15 the meeting that took place inside?

16 A. No, I did not.

17 Q. Were you able to observe the demonstration of the opening
18 up and the closing of the trap between Jorge Gomez and Tony?

19 A. No, I did not see that. The parking lot where that, on
20 28th Street, sits high, so you can't really see that well
21 unless you have a car parked up there, and I wasn't up there.

22 Q. Now, this vehicle, the white you call it, was equipped with
23 a GPS tracker, correct?

24 A. Correct.

25 Q. The tracker was designed to allow you to track the vehicle

1 from New Jersey to Louisiana, correct?

2 A. Well, wherever he was going to drive it to, yes.

3 Q. And the trap also had an alarm attached to it, correct?

4 A. Correct.

5 Q. And the purpose of that alarm was to signal any access,
6 whether it was opened, of that trap, correct?

7 A. Correct.

8 Q. Would it be fair to say that -- withdrawn.

9 Would it be fair to say that the opening of that trap would
10 suggest that narcotics are being placed inside?

11 MR. EGAN: Objection.

12 THE COURT: Sustained.

13 Q. The purpose of the alarm was to send a signal to the DEA
14 agents when the secret compartment was opened, correct?

15 A. Correct.

16 Q. You never, you or any members of your team, ever received
17 an alarm, correct?

18 A. What do you mean we didn't receive an alarm?

19 Q. You never received a signal that the alarm, that the trap
20 was accessed, correct?

21 A. Whenever it was accessed, we would receive an alarm, yes.

22 Q. You never received an alarm, correct?

23 A. I don't understand the question.

24 Q. Did you receive a signal that the trap had been opened
25 between the time that it left New Jersey to the time it got to

1 Louisiana?

2 A. Between New Jersey and Louisiana?

3 Q. Yes.

4 A. No.

5 Q. I'm sorry?

6 A. No, I don't believe we have. I don't remember it being,
7 getting an alarm that it was being opened.

8 Q. Now, you indicated that you observed Sandy in Louisiana
9 meet with an individual, correct?

10 A. I saw him in, with a black male in his vehicle, in the
11 Yukon.

12 Q. During your observation, you did not observe Mr. Gomez,
13 sitting here, engage in any type of exchange, correct?

14 A. I did not.

15 Q. And during the time that he was being surveilled in
16 Louisiana, you never observed him engaging in any type of
17 narcotics transaction, correct?

18 A. I did not.

19 Q. And you never observed Sandy Gomez receiving any packages
20 from anyone, correct?

21 A. I did not.

22 Q. Nor did you observe him, Sandy Gomez, giving any packages
23 to anyone, correct?

24 A. I did not. Correct.

25 Q. Nor did you observe Ms. Ramon-Baez accepting or receiving

1 packages, correct?

2 A. No. I --

3 Q. I'll do them one at a time.

4 A. OK.

5 Q. You never observed Ms. Ramon-Baez giving a package to
6 anyone, correct?

7 A. No I did not.

8 Q. Nor did you observe him receiving a package from anyone,
9 correct?

10 A. I did not. Correct.

11 Q. This package you described in the Yukon, it's not really
12 visible to the naked eye, correct?

13 A. Correct.

14 Q. You have to lift up the seat to find it, correct?

15 A. Well, the seat is lifted when, if activated, yes.

16 Q. Just so the jury understands, this trap is in the back
17 seat, right?

18 A. In the back seat, correct.

19 Q. And it's underneath the seat itself in the back, correct?

20 A. Yes.

21 Q. So the trap is underneath the part that you would sit on,
22 correct?

23 A. Correct.

24 Q. Now, Mr. Sandy Gomez was driving the vehicle at the time
25 you surveilled him, correct?

1 A. Correct.

2 Q. At various times Ms. Ramon-Baez was the front passenger,
3 correct?

4 A. Correct.

5 MS. TODD: Moment, your Honor.

6 THE COURT: Yes.

7 Q. Now, you indicated you observed him going into various
8 establishments. One was Pep Boys, the gas station later, and
9 during that time, he was not observed meeting with anyone,
10 correct?

11 A. Correct.

12 Q. Were you part of the processing of Mr. Gomez's arrest?

13 A. No.

14 Q. And do you recall what fast food restaurant; was that
15 Popeye's that they went to?

16 A. Yes, correct.

17 Q. And Government Exhibit, I believe it's --

18 MS. TODD: May we have Government Exhibit 100 up?

19 Q. On top of that truck, Government Exhibit 100, is that the
20 Popeye's chicken box?

21 A. I don't know what that is.

22 Q. But that is an object, correct?

23 A. I don't know if it's on the vehicle or it's something on
24 the other side of the vehicle, but I see something up there.

25 Q. That is not a fixture of the vehicle, is it?

1 A. I don't know. I can't really tell by that picture.

2 Q. You were one of the agents who delivered this vehicle to
3 the informant to give to George Gomez, correct?

4 A. Correct.

5 Q. You know what the vehicle looked like initially, correct?

6 A. Yes.

7 Q. The thing that's sitting on the top was not there when you
8 gave it to --

9 A. What I'm saying is I don't know if that's on top of the
10 vehicle because I can't really tell if that's really on top of
11 the vehicle or if that's something that's next to the vehicle.

12 Q. Fair enough. Now, you indicated that when Mr. Gomez was
13 stopped, you were not present?

14 A. Correct.

15 Q. But you observed the flashing lights?

16 A. Yes, I did.

17 Q. You observed them being pulled over?

18 A. No. All I saw was flashing lights.

19 Q. So the next time you saw -- withdrawn.

20 MS. TODD: Nothing further, your Honor.

21 THE COURT: All right. Any redirect?

22 MR. EGAN: Briefly, your Honor.

23 REDIRECT EXAMINATION

24 BY MR. EGAN:

25 Q. On cross-examination, you were asked some questions about

1 the condition of the car when you gave it to Tony. Do you
2 recall that?

3 A. Yes.

4 Q. Prior to turning over the car to the CS, did you guys check
5 inside the trap?

6 A. Yes.

7 Q. Was there anything in the trap at that time?

8 A. No.

9 Q. Was there anything elsewhere in the car, or was the car
10 empty?

11 A. The car was empty.

12 Q. You also mentioned that when you, with respect to the
13 alarms, the trap alarms, you said there were some problems or
14 eventually there were some problems. Can you describe what
15 those were?

16 A. It wasn't functioning.

17 Q. How do you know that?

18 A. Well, we already know because we weren't getting any
19 signals that the trap was being opened or closed.

20 Q. When you were initially testing it, did you have the same
21 sort of problems?

22 A. No.

23 MR. EGAN: One moment.

24 Nothing further, your Honor.

25 THE COURT: All right. Anything else, Ms. Todd?

1 MS. TODD: Yes, your Honor. Briefly.

2 RECROSS-EXAMINATION

3 BY MS. TODD:

4 Q. Despite the GPS not functioning, you were able to track the
5 vehicle from New Jersey to Louisiana, correct?

6 A. Correct.

7 MS. TODD: Nothing further.

8 THE COURT: All right. Anything else?

9 MR. EGAN: Not from the government.

10 THE COURT: You can step down, sir.

11 (Witness excused)

12 THE COURT: All right. Ladies and gentlemen, that's
13 going to conclude the testimony for today. I do want to tell
14 you what our schedule is going to be. First of all, as I told
15 you during jury selection, we're going to have an unusual day
16 tomorrow in light of the election, so we're going to begin at
17 9:30 in the morning, but we will end at 2:00. That means no
18 lunch. What I'm going to ask you to do, we're going to take
19 two breaks. We're going to take a morning break and then we're
20 going to take a break at, say, 12:45 or so. Bring a granola
21 bar or a snack or something to keep you going until 2:00,
22 because we're not going to take a lunch break. We're going to
23 take two ten-minute breaks during the day and then at 2:00
24 we're going to call it quits. Wednesday, we'll resume a
25 9:30-to-5 schedule and Thursday, if necessary, we'll continue

with the 9:30-to-5 schedule. Tomorrow is unusual; it's just for Election Day, and that will be the schedule that we will be on.

In just a moment, I'm going to ask Mr. Ruocco to lead you into the jury room. That's where you will report tomorrow morning. Mr. Ruocco will give you a telephone number where we can be reached, and he will ask you to give him a telephone number so that we can have communication if necessary.

In the meantime, don't discuss the case. You've only heard a little bit of the testimony. Don't discuss the case with anyone. Keep an open mind, because there's more testimony to hear. And we'll resume at 9:30 tomorrow morning. In the meantime, goodnight, and please follow Mr. Ruocco into the jury room. Thank you all very much.

(Continued on next page)

1 (In open court; jury not present)

2 THE COURT: Please be seated. We do have the legal
3 issue remaining about the transcript. I did find the case that
4 Mr. Cooper had mentioned earlier, the Sanin case.

5 Mr. Cooper, that's a summary order; it's not anything
6 I can rely on. I'm still interested in authority, precedential
7 authority, so I would like to get a letter from the parties.

8 Ms. Todd, you're welcome to put in a letter as well.
9 But I would like authority on this issue. The issue is very
10 straightforward. The government has argued that the statements
11 that Mr. Jorge Gomez made on the transcript, which is
12 Government Exhibit 207T, were made in furtherance of the
13 conspiracy even though two of the coconspirators had been
14 arrested and even though the statement was made to a government
15 informant. What I'm looking for is authority confirming that a
16 statement made to a government informant can be a coconspirator
17 statement, essentially if the person believes that the person
18 he is speaking to is a coconspirator and if the speaker also
19 believes that the statement is made in furtherance of the
20 conspiracy.

21 If the government could focus on cases that involve
22 that scenario, I'd be happy to read the authority. And as I
23 said, Ms. Todd, I'm happy to look at any authority you have on
24 the subject as well.

25 Anything else the parties want to raise before we

1 break for the evening?

2 MR. EGAN: Not from the government.

3 MS. TODD: Not from the defense, your Honor.

4 THE COURT: All right. When do you expect the
5 transcripts to start coming in?

6 MR. COOPER: The first witness tomorrow, your Honor.

7 THE COURT: OK. So let's talk about the issue about
8 the transcript postarrest, I guess you could call it the
9 postarrest transcript in the sense that it's post Sandy Gomez
10 and Caronlay Baez. It's post their arrest but before Jorge
11 Gomez was arrested. Let's talk about that transcript before we
12 begin tomorrow, so let's start at nine so we can chat about
13 that before the jury arrives. OK?

14 MR. COOPER: Certainly, your Honor. Thank you.

15 THE COURT: Thank you all. See you tomorrow morning.

16 (Adjourned to November 8, 2016, at 9:00 a.m.)

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